

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 57

99TH GENERAL ASSEMBLY

0042H.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 557.035, 565.023, 565.024, 565.027, 569.100, 569.120, 569.140, 571.030, and 574.050, RSMo, and to enact in lieu thereof nine new sections relating to penalty enhancements for certain offenses, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 557.035, 565.023, 565.024, 565.027, 569.100, 569.120, 569.140, 571.030, and 574.050, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 557.035, 565.023, 565.024, 565.027, 569.100, 569.120, 569.140, 571.030, and 574.050, to read as follows:

557.035. 1. For all violations of **section 565.054, section 565.090**, subdivision (1) of subsection 1 of section 569.100, or subdivision (1), (2), (3), (4), (6), (7) or (8) of subsection 1 of section 571.030, which the state believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual orientation or disability of the victim or victims, the state may charge the offense or offenses under this section, and the violation is a class D felony.

2. For all violations of ~~[section 565.054; subdivisions (1), (3) and (4) of subsection 1 of section 565.090; subdivision (1) of subsection 1 of section 569.090;]~~ subdivision (1) of subsection 1 of section 569.120; section 569.140; or section 574.050; which the state believes to be knowingly motivated because of race, color, religion, national origin, sex, sexual orientation or disability of the victim or victims, the state may charge the offense or offenses under this section, and the violation is a class E felony.

3. The court shall assess punishment in all of the cases in which the state pleads and proves any of the motivating factors listed in this section.

565.023. 1. A person commits the offense of voluntary manslaughter if he or she:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

2 (1) Causes the death of another person under circumstances that would constitute murder
3 in the second degree under subdivision (1) of subsection 1 of section 565.021, except that he or
4 she caused the death under the influence of sudden passion arising from adequate cause; or

5 (2) Knowingly assists another in the commission of self-murder.

6 2. The defendant shall have the burden of injecting the issue of influence of sudden
7 passion arising from adequate cause under subdivision (1) of subsection 1 of this section.

8 3. The offense of voluntary manslaughter is a class B felony, **unless the victim of such**
9 **offense is a law enforcement officer, as defined under section 556.061, in which case it is**
10 **a class A felony.**

565.024. 1. A person commits the offense of involuntary manslaughter in the first
2 degree if he or she recklessly causes the death of another person.

3 2. The offense of involuntary manslaughter in the first degree is a class C felony, **unless**
4 **the victim of such offense is a law enforcement officer, as defined under section 556.061,**
5 **in which case it is a class B felony.**

565.027. 1. A person commits the offense of involuntary manslaughter in the second
2 degree if he or she acts with criminal negligence to cause the death of any person.

3 2. The offense of involuntary manslaughter in the second degree is a class E felony,
4 **unless the victim of such offense is a law enforcement officer, as defined under section**
5 **556.061, in which case it is a class D felony.**

569.100. 1. A person commits the offense of property damage in the first degree if such
2 person:

3 (1) Knowingly damages property of another to an extent exceeding seven hundred fifty
4 dollars; or

5 (2) Damages property to an extent exceeding seven hundred fifty dollars for the purpose
6 of defrauding an insurer; or

7 (3) Knowingly damages a motor vehicle of another and the damage occurs while such
8 person is making entry into the motor vehicle for the purpose of committing the crime of stealing
9 therein or the damage occurs while such person is committing the crime of stealing within the
10 motor vehicle.

11 2. The offense of property damage in the first degree committed under subdivision (1)
12 or (2) of subsection 1 of this section is a class E felony. The offense of property damage in the
13 first degree committed under subdivision (3) of subsection 1 of this section is a class D felony
14 unless committed as a second or subsequent violation of subdivision (3) of subsection 1 of this
15 section in which case it is a class B felony.

16 **3. Notwithstanding subsection 2 of this section to the contrary, for a violation of**
17 **subdivision (1) of subsection 1 of this section in which the victim is a law enforcement**
18 **officer, as defined under section 556.061, such offense is a class D felony.**

 569.120. 1. A person commits the offense of property damage in the second degree if
2 he or she:

- 3 (1) Knowingly damages property of another; or
- 4 (2) Damages property for the purpose of defrauding an insurer.

5 2. The offense of property damage in the second degree is a class B misdemeanor.

6 **3. Notwithstanding subsection 2 of this section, for a violation of subdivision (1) of**
7 **subsection 1 of this section in which the victim is a law enforcement officer, as defined**
8 **under section 556.061, such offense is a class A misdemeanor.**

 569.140. 1. A person commits the offense of trespass in the first degree if he or she
2 knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable
3 structure or upon real property.

4 2. A person does not commit the offense of trespass in the first degree by entering or
5 remaining upon real property unless the real property is fenced or otherwise enclosed in a manner
6 designed to exclude intruders or as to which notice against trespass is given by:

- 7 (1) Actual communication to the actor; or
- 8 (2) Posting in a manner reasonably likely to come to the attention of intruders.

9 3. The offense of trespass in the first degree is a class B misdemeanor, **unless the victim**
10 **of such offense is a law enforcement officer, as defined under section 556.061, in which case**
11 **it is a class A misdemeanor.**

 571.030. 1. A person commits the offense of unlawful use of weapons, except as
2 otherwise provided by sections 571.101 to 571.121, if he or she knowingly:

3 (1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or
4 any other weapon readily capable of lethal use into any area where firearms are restricted under
5 section 571.107; or

6 (2) Sets a spring gun; or

7 (3) Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft,
8 or motor vehicle as defined in section 302.010, or any building or structure used for the
9 assembling of people; or

10 (4) Exhibits, in the presence of one or more persons, any weapon readily capable of
11 lethal use in an angry or threatening manner; or

12 (5) Has a firearm or projectile weapon readily capable of lethal use on his or her person,
13 while he or she is intoxicated, and handles or otherwise uses such firearm or projectile weapon

14 in either a negligent or unlawful manner or discharges such firearm or projectile weapon unless
15 acting in self-defense; or

16 (6) Discharges a firearm within one hundred yards of any occupied schoolhouse,
17 courthouse, or church building; or

18 (7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or
19 across a public highway or discharges or shoots a firearm into any outbuilding; or

20 (8) Carries a firearm or any other weapon readily capable of lethal use into any church
21 or place where people have assembled for worship, or into any election precinct on any election
22 day, or into any building owned or occupied by any agency of the federal government, state
23 government, or political subdivision thereof; or

24 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section
25 301.010, discharges or shoots a firearm at any person, or at any other motor vehicle, or at any
26 building or habitable structure, unless the person was lawfully acting in self-defense; or

27 (10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable
28 of lethal use into any school, onto any school bus, or onto the premises of any function or activity
29 sponsored or sanctioned by school officials or the district school board; or

30 (11) Possesses a firearm while also knowingly in possession of a controlled substance
31 that is sufficient for a felony violation of section 579.015.

32 2. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to the
33 persons described in this subsection, regardless of whether such uses are reasonably associated
34 with or are necessary to the fulfillment of such person's official duties except as otherwise
35 provided in this subsection. Subdivisions (3), (4), (6), (7), and (9) of subsection 1 of this section
36 shall not apply to or affect any of the following persons, when such uses are reasonably
37 associated with or are necessary to the fulfillment of such person's official duties, except as
38 otherwise provided in this subsection:

39 (1) All state, county and municipal peace officers who have completed the training
40 required by the police officer standards and training commission pursuant to sections 590.030
41 to 590.050 and who possess the duty and power of arrest for violation of the general criminal
42 laws of the state or for violation of ordinances of counties or municipalities of the state, whether
43 such officers are on or off duty, and whether such officers are within or outside of the law
44 enforcement agency's jurisdiction, or all qualified retired peace officers, as defined in subsection
45 12 of this section, and who carry the identification defined in subsection 13 of this section, or
46 any person summoned by such officers to assist in making arrests or preserving the peace while
47 actually engaged in assisting such officer;

48 (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other
49 institutions for the detention of persons accused or convicted of crime;

50 (3) Members of the Armed Forces or National Guard while performing their official
51 duty;

52 (4) Those persons vested by Article V, Section 1 of the Constitution of Missouri with
53 the judicial power of the state and those persons vested by Article III of the Constitution of the
54 United States with the judicial power of the United States, the members of the federal judiciary;

55 (5) Any person whose bona fide duty is to execute process, civil or criminal;

56 (6) Any federal probation officer or federal flight deck officer as defined under the
57 federal flight deck officer program, 49 U.S.C. Section 44921, regardless of whether such officers
58 are on duty, or within the law enforcement agency's jurisdiction;

59 (7) Any state probation or parole officer, including supervisors and members of the
60 board of probation and parole;

61 (8) Any corporate security advisor meeting the definition and fulfilling the requirements
62 of the regulations established by the department of public safety under section 590.750;

63 (9) Any coroner, deputy coroner, medical examiner, or assistant medical examiner;

64 (10) Any municipal or county prosecuting attorney or assistant prosecuting attorney;
65 circuit attorney or assistant circuit attorney; municipal, associate, or circuit judge; or any person
66 appointed by a court to be a special prosecutor who has completed the firearms safety training
67 course required under subsection 2 of section 571.111;

68 (11) Any member of a fire department or fire protection district who is employed on a
69 full-time basis as a fire investigator and who has a valid concealed carry endorsement issued
70 prior to August 28, 2013, or a valid concealed carry permit under section 571.111 when such
71 uses are reasonably associated with or are necessary to the fulfillment of such person's official
72 duties; and

73 (12) Upon the written approval of the governing body of a fire department or fire
74 protection district, any paid fire department or fire protection district member who is employed
75 on a full-time basis and who has a valid concealed carry endorsement issued prior to August 28,
76 2013, or a valid concealed carry permit, when such uses are reasonably associated with or are
77 necessary to the fulfillment of such person's official duties.

78 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not apply when
79 the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when
80 ammunition is not readily accessible or when such weapons are not readily accessible.
81 Subdivision (1) of subsection 1 of this section does not apply to any person nineteen years of age
82 or older or eighteen years of age or older and a member of the United States Armed Forces, or
83 honorably discharged from the United States Armed Forces, transporting a concealable firearm
84 in the passenger compartment of a motor vehicle, so long as such concealable firearm is
85 otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or

86 projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon
87 premises over which the actor has possession, authority or control, or is traveling in a continuous
88 journey peaceably through this state. Subdivision (10) of subsection 1 of this section does not
89 apply if the firearm is otherwise lawfully possessed by a person while traversing school premises
90 for the purposes of transporting a student to or from school, or possessed by an adult for the
91 purposes of facilitation of a school-sanctioned firearm-related event or club event.

92 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not apply to any
93 person who has a valid concealed carry permit issued pursuant to sections 571.101 to 571.121,
94 a valid concealed carry endorsement issued before August 28, 2013, or a valid permit or
95 endorsement to carry concealed firearms issued by another state or political subdivision of
96 another state.

97 5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this section shall
98 not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031.

99 6. Notwithstanding any provision of this section to the contrary, the state shall not
100 prohibit any state employee from having a firearm in the employee's vehicle on the state's
101 property provided that the vehicle is locked and the firearm is not visible. This subsection shall
102 only apply to the state as an employer when the state employee's vehicle is on property owned
103 or leased by the state and the state employee is conducting activities within the scope of his or
104 her employment. For the purposes of this subsection, "state employee" means an employee of
105 the executive, legislative, or judicial branch of the government of the state of Missouri.

106 7. Nothing in this section shall make it unlawful for a student to actually participate in
107 school-sanctioned gun safety courses, student military or ROTC courses, or other
108 school-sponsored or club-sponsored firearm-related events, provided the student does not carry
109 a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or
110 onto the premises of any other function or activity sponsored or sanctioned by school officials
111 or the district school board.

112 8. A person who commits the ~~[crime]~~ **offense** of unlawful use of weapons under:

113 (1) Subdivision (2), (3), (4), or (11) of subsection 1 of this section shall be guilty of a
114 class E felony;

115 (2) Subdivision (1), (6), (7), or (8) of subsection 1 of this section shall be guilty of a class
116 B misdemeanor, except when a concealed weapon is carried onto any private property whose
117 owner has posted the premises as being off-limits to concealed firearms by means of one or more
118 signs displayed in a conspicuous place of a minimum size of eleven inches by fourteen inches
119 with the writing thereon in letters of not less than one inch, in which case the penalties of
120 subsection 2 of section 571.107 shall apply;

121 (3) Subdivision (5) or (10) of subsection 1 of this section shall be guilty of a class A
122 misdemeanor if the firearm is unloaded and a class E felony if the firearm is loaded;

123 (4) Subdivision (9) of subsection 1 of this section shall be guilty of a class B felony,
124 except that if the violation of subdivision (9) of subsection 1 of this section results in injury or
125 death to another person, it is a class A felony.

126 9. Violations of subdivision (9) of subsection 1 of this section shall be punished as
127 follows:

128 (1) For the first violation a person shall be sentenced to the maximum authorized term
129 of imprisonment for a class B felony;

130 (2) For any violation by a prior offender as defined in section 558.016, a person shall be
131 sentenced to the maximum authorized term of imprisonment for a class B felony without the
132 possibility of parole, probation or conditional release for a term of ten years;

133 (3) For any violation by a persistent offender as defined in section 558.016, a person
134 shall be sentenced to the maximum authorized term of imprisonment for a class B felony without
135 the possibility of parole, probation, or conditional release;

136 (4) For any violation which results in injury or death to another person, a person shall
137 be sentenced to an authorized disposition for a class A felony.

138 10. Any person knowingly aiding or abetting any other person in the violation of
139 subdivision (9) of subsection 1 of this section shall be subject to the same penalty as that
140 prescribed by this section for violations by other persons.

141 11. Notwithstanding any other provision of law, no person who pleads guilty to or is
142 found guilty of a felony violation of subsection 1 of this section shall receive a suspended
143 imposition of sentence if such person has previously received a suspended imposition of sentence
144 for any other firearms- or weapons-related felony offense.

145 12. As used in this section "qualified retired peace officer" means an individual who:

146 (1) Retired in good standing from service with a public agency as a peace officer, other
147 than for reasons of mental instability;

148 (2) Before such retirement, was authorized by law to engage in or supervise the
149 prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any
150 violation of law, and had statutory powers of arrest;

151 (3) Before such retirement, was regularly employed as a peace officer for an aggregate
152 of fifteen years or more, or retired from service with such agency, after completing any
153 applicable probationary period of such service, due to a service-connected disability, as
154 determined by such agency;

155 (4) Has a nonforfeitable right to benefits under the retirement plan of the agency if such
156 a plan is available;

(5) During the most recent twelve-month period, has met, at the expense of the individual, the standards for training and qualification for active peace officers to carry firearms;

(6) Is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) Is not prohibited by federal law from receiving a firearm.

13. The identification required by subdivision (1) of subsection 2 of this section is:

(1) A photographic identification issued by the agency from which the individual retired from service as a peace officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm; or

(2) A photographic identification issued by the agency from which the individual retired from service as a peace officer; and

(3) A certification issued by the state in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the state to meet the standards established by the state for training and qualification for active peace officers to carry a firearm of the same type as the concealed firearm.

14. Notwithstanding any provision of this section to the contrary, for a violation of subdivision (2), (3), (4), (6), or (7) of subsection 1 of this section in which the victim is a law enforcement officer, as defined under section 556.061, such offense is a class D felony.

574.050. 1. A person commits the offense of rioting if he or she knowingly assembles with six or more other persons and agrees with such persons to violate any of the criminal laws of this state or of the United States with force or violence, and thereafter, while still so assembled, does violate any of said laws with force or violence.

2. The offense of rioting is a class A misdemeanor, **unless the victim of the offense is a special victim, as the term "special victim" is defined under section 565.002, in which case it is a class E felony.**

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